

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

January 27, 2010

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, P.J., Rothschild, J., Chaney, J., Johnson, J. and S. Stahl, Deputy Clerk.

B215114 Friends of Glendora, et al. v. City of Glendora, et al.

Argument waived, cause submitted.

B214291 Azarkman
v.
NICCA, LLC et al.

Merits:

Argued by Matthew H. Schwartz for appellant. Ehsan Afaghi waived argument for respondent. Cause submitted.

B211747 Smith
v.
Bates

Merits:

Argued by James J. Armstrong for appellant and by Steven R. Jensen for respondent. Cause submitted.

B216220 Musnicki
v.
Janasi

Merits:

Argued by Michael A. Brush for appellant and respondent waives oral argument. Cause submitted.

DIVISION ONE (continued)

B214001 Payne
 v.
 Young

Merits:

Argued by Derick Payne appellant in propria persona and no appearance by respondent. Cause submitted.

B213107 Medical Staffing Network, Inc.
 v.
 Gardena Acquisitions, GP

Merits:

Argued by Alan W. Forsley for appellant and by Nate G. Kraut for respondents. Cause submitted.

B213322 Graffiti Protective Coatings, Inc., et al.
 v.
 City of Pico Rivera

Merits:

Argued by William Rehwald for appellants and by Richard Hai Lam for respondent. Cause submitted.

B213386 Kempton, et al.
 v.
 Clark, et al.

Merits:

Argued by Charles Kinney for appellants and by David M. Marcus for respondents. Cause submitted.

DIVISION ONE (continued)

B214060 Navarette
 v.
 L.A. Unified School Dist.

Merits:
Argued by Angelo Navarett appellant in propria persona and by Rupert A. Byrdsong for respondent. Cause submitted.

B208268 Yaffe
 v.
 Mendelsohn

Merits:
Argued by Rex S. Heinke for appellant and by H. Thomas Watson for respondents. Cause submitted.

Chaney, J. leaves the bench.

B213162 Jones
 v.
 Superior Court of Los Angeles

Merits:
Argued by Ray Jones appellant in propria persona. Sarah Overton previously waived oral argument for respondent. Cause submitted.

Chaney, J. resumes to the bench.

Johnson, J. leaves the bench.

B199793 Brown, et al.
 v.
 Mortensen

Merits:
Argued by Robert Brown for appellants and by David J. Kaminski for respondent. Cause submitted.

DIVISION ONE (continued)

B211415 Kmart Corporation
 v.
 XL Insurance Inc., et al.

Merits:

Argued by Paul R. Walker-Bright for appellant, by Thomas B. Orlando for respondent XL Insurance Co. and by Cheryl A. Orr for respondents Securities Holdings, Inc., et al. Cause submitted.

Court adjourned.

B210435 In re J.L., P.M. and K.L. Persons Coming (Not for Publication)
 Under the Juvenile Court Law.
 People v. J. L.
 People v. P.M.
 People v. K.L.

Case No. MJ15251 (J.L.) is remanded for the juvenile court to exercise its discretion, in accordance with Welfare and Institutions Code section 702 and In re Manzy W. (1997) 14 Cal.4th 1199, 1207, by determining whether J.L.'s violation of Penal Code section 71 should be deemed a felony or a misdemeanor. J.L.'s probation condition number 15 is modified to prohibit J.L. from associating with anyone of whom he knows his parents or probation officer disapprove. The maximum term of confinement declared by the juvenile court is stricken. The order under review in case No. MJ15251 is otherwise affirmed. In case No. MJ16346 (P.M.), the maximum term of confinement declared by the juvenile court is stricken. The order under review in case No. MJ16346 is otherwise affirmed. In case No. MJ16347 (K.L.), the condition of probation prohibiting K.L. from associating with cominors (condition number 15) is modified to prohibit her from associating with P.M. and anyone known to be disapproved by her parents or probation officer. The maximum term of confinement declared by the juvenile court is stricken. The order under review in case No. MJ16347 is otherwise affirmed.

Mallano, P.J.

We concur: Rothschild, J.
 Johnson, J.

DIVISION THREE

B210918 Hunley (Not for Publication)
v.
Hardin

The order is affirmed. Hunley shall bear costs on appeal.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B215223 Hunley (Not for Publication)
v.
George, et al.

The order is affirmed. Hunley shall bear costs on appeal.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B217842 Los Angeles County, D.C.F.S. (Not for Publication)
v.
E.M.

The portion of the trial court's July 9, 2009, order denying Father reunification services is reversed and the case is remanded for the court's reconsideration, in light of the views expressed herein, of the issue of reunification services for Father, including the issues as to whether (1) either or both of the minors was subjected to severe sexual abuse and (2) providing Father with reunification services would be in either or both minors' best interests. In all other respects, the July 9, 2009 order is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

DIVISION THREE (continued)

B208025 People (Not for Publication)
v.
Quinton Marcell Carr

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B206799 People (Not for Partial Publication)
v.
Bennie T. Nero, et al.

The judgment is affirmed as to defendant and appellant Bennie Nero. The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion as to defendant and appellant Lisa Brown.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

B211738 People (Not for Publication)
v.
Charles B.

The judgment (order declaring Charles B. a ward of the court under Welfare and Institutions Code section 602) is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (continued)

B211503 Jackson (Not for Publication)
v.
Estate of Jo Ann Brasel

The judgment is reversed with directions to the trial court to conduct further proceedings consistent with the views expressed in this opinion. Plaintiff is entitled to recover her costs on appeal.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION FOUR

B213703 Los Angeles Unified School District (Certified for Publication)
v.
County of Los Angeles, et al.
City of Los Angeles, et al.

The judgment is reversed and the matter remanded for further proceedings. Appellant LAUSD is awarded costs on appeal.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

B215602 Matthews (Not for Publication)
v.
Matthews

We affirm the post-judgment orders. Respondent(s) to recover costs.

Epstein, P.J.

We concur: Willhite, J.
Manella, J.

DIVISION THREE (continued)

B215457 State Farm General Insurance Company (Certified for Publication)
v.
JT's Frames, Inc.

The judgment is affirmed. Respondent(s) to recover costs.

Manella, J.

We concur: Willhite, Acting P.J.
Suzukawa, J.

DIVISION FIVE

B215788 Save the Plastic Bag Coalition (Certified for Publication)
v.
City of Manhattan Beach

The judgment issuing a peremptory writ of mandate is affirmed. Plaintiff, Save the Plastic Bag Coalition, shall recover its costs on appeal from defendant, the City of Manhattan Beach.

Turner, P.J.

I concur: Kriegler, J.
I dissent: Mosk, J. (Opinion)

B208953 Ronald Pietro (Not for Publication)
v.
Adam Michael Sacks

The judgment is affirmed. The parties are to bear their own costs on appeal.

Kriegler, J.

I concur: Turner, P.J.
I dissent: Mosk, J. (Opinion)

DIVISION FIVE (continued)

B212859 Richard Velzen and Marianne Velzen (Not for Publication)
v.
Jeffrey L. Willis, et al.

The appeal of Trailer Nation USA Inc. is dismissed. The orders of the trial court granting the motion to dismiss as to sixth cause of action against Willis and Perlman and denying the motion to dismiss as to all other causes of action, are otherwise affirmed. Plaintiffs shall recover their costs. The matter is remanded to the trial court for further proceedings, including a determination as to whether attorney fees under Code of Civil Procedure section 425.16, subdivision (c) should be awarded in connection with the appeal and the amount of any such fees.

Mosk, J.

I concur: Armstrong, J.
I concur: Turner, P.J. (opinion)

B209938 Thompson Pacific Construction, Inc. (Not for Publication)
v.
Los Angeles Unified School District
Western Surety Company, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Turner, P.J.
Kriegler, J.

DIVISION FIVE (continued)

B213743 George Deitch (Not for Publication)
 v.
 Wizard Gaming, Inc.,

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

I concur: Kriegler, J.
I dissent: Turner, P.J. (Opinion)

B213484 Regents of the University of California
 v.
 David Kraus

Filed order vacating submission order of October 5, 1009 due to the press
of business, complexity of issues, and illness. Cause resubmitted.

DIVISION SIX

B216764 People (Not for Publication)
 v.
 Johnnie Kemp

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Perren, J.

January 27, 2010 (Continued)

DIVISION SIX (continued)

B208015 People (Not for Publication)
v.
Francis Anthony Tribble

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B210522 People (Not for Publication)
v.
Lennan

The judgment is reversed as to count 1 and we affirm count 2. The matter is remanded to allow the court to resentence Lennan on counts 2 & 3. In all other respects, the judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B210231 People (Not for Publication)
v.
Williams, et al.

The judgments are affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.

DIVISION SIX (continued)

[illegible]

The conviction for the attempted murder of Rodriguez (count 3) is reversed for insufficiency of the evidence. The reversal reduces appellant's aggregate prison term from 145 years to life to 105 years to life. The trial court is directed to amend the abstract of judgment to show only one attempted murder conviction (count 2) with a consecutive sentence of 15 years to life plus 25 years to life for the firearm enhancement. The trial court shall transmit a certified copy of the amendment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B209277	Friends of Outer State Street v. City of Santa Barbara, et al. Hart, et al.	(Not for Publication)
---------	--	-----------------------

The judgment is affirmed. Respondents and Real Parties to recover costs.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

DIVISION SEVEN

B215861 Arce, et al., (Certified for Publication)
v.
Kaiser Foundation Health Plan, Inc., et al.

The trial court's order sustaining the demurrer to the class action allegations of the third cause of action for violation of the UCL is reversed. The matter is remanded to the trial court for further proceedings consistent with this opinion. Arce shall recover his costs on appeal.

Zelon, J.

We concur: Perluss, P.J.
Woods, J.

B215533 Los Angeles County, D.C.F.S. (Not for Publication)
v.
J. H.

The judgment is affirmed.

Zelon, J.

We concur: Woods, Acting P.J.
Jackson, J.

B215365 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Y. A.

The order is affirmed.

Jackson, J.

We concur: Woods, Acting P.J.
Zelon, J.

DIVISION SEVEN (continued)

B210881 People (Not for Publication)
v.
Risher

The judgment is modified by striking the DNA fees. As modified, the judgment is affirmed. The clerk of the court is directed to prepare a corrected abstract of judgment and forward a copy to the Department of Corrections and Rehabilitation.

Jackson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION EIGHT

B212297 Bedrossian (Not for Publication)
v.
Edd

The judgment is affirmed.

Lichtman, J. (Assigned)

We concur: Flier, Acting P.J.
Bigelow, J.

B214287 Doi (Not for Publication)
v.
Union Pacific Railroad Company

The judgment is affirmed. Doi is to recover his costs on appeal.

Mohr, J. (Assigned)

We concur: Flier, Acting P.J.
Bigelow, J.

DIVISION EIGHT (continued)

B213482 People (Not for Publication)
v.
Zelaya and Roberts

The 10-year enhancement is stricken from Zelaya's abstract of judgment for count 1. The trial court is directed to issue an amended abstract of judgment without any reference to the 10-year enhancement and to forward a copy of the amended abstract of judgment to the Department of Corrections. The judgment against Roberts is affirmed.

Mohr, J. (Assigned)

We concur: Rubin, Acting P.J.
Flier, J.

[illegible]

The judgment is modified by staying the sentence on count 1, the stay to become permanent upon appellant's completion of his remaining term. As so modified, the judgment is affirmed. The trial court shall prepare and transmit to the appropriate authorities an amended abstract of judgment, reflecting the foregoing modification.

Mohr, J. (Assigned)

We concur: Flier, Acting P.J.
Bigelow, J.

DIVISION EIGHT (continued)

B212877 LB South & Downey, LLC (Not for Publication)
v.
Sek-Kam Suen

The judgment is reversed. The court is directed to enter a new order reinstating appellant's answer and denying respondent's motion for terminating sanctions. The reinstatement of appellant's answer is without prejudice to the court's exercise of its discretion to impose sanctions needed to ensure appellant complies with the court's order to provide discovery.

Rubin, Acting P.J.

We concur: Bigelow, J.
Lichtman, J. (Assigned)

B205856 Daniela Biscaro
v.
Marc Gregory Stern

On the court's own motion, the opinion filed November 30, 2009 in this matter is vacated.